



To His Highness, The LORD PROTECTOR, &c.

The Humble Petition of Clement Writer :

Sheweth,

That your Petitioner long since did sustain much wrong and damage by an unjust Decree of the Lord Keeper Coventry, in the behalf of one Worfeild, as appears by the Reports ready to have been made both formerly in Parliament, and now to your Highness. That your Petitioner never had addressed himself either to your Highness or to Parliaments, but upon advice that there was no relief for him in any ordinary way : And that no Authority would entertain and appoint the Examination of a Cause, without a Power and a Will as well to give a Remedy, as to finde the Grief.

That notwithstanding your Petitioner is left under the same injury which he hath complained of these many years, with the addition of the trouble and charge of so long attendance falling upon an aged person to the ruine of his Estate, and the breaking of his heart.

May it therefore please your Highness to take an Accompt of the Proceedings upon the last Reference made by your Highness in your Petitioners Business, now returned by Serg. Parker, and Mr. Corbet ; And as the justice thereof shall appear, to apply such a Remedy for the comfort of your Petitioner, as to your Wisdom, Justice, and Goodness shall seem most convenient.

And your Petitioner shall pray, &c.

Clement Writer.

Aug. 10. 1655.

His Highness referreth this, with the Report and Papers annexed, to the Consideration of the Council, for the Petitioners due Relief, with all convenient speed.

J. Sadler.

To His Highness, the Lord Protector of England, Scotland, and Ireland, &c.

IN Obedience to your Highness Order of the 6 of Feb. 1653. whereby the Petition of Clement Writer is referred unto us, to certify the state of the Business, with our Opinions how the Petitioner may be relieved, we humbly certify : That the substance of the Petition is, to be Relieved against a Decree in Chancery, grounded (as is alleaged in the Petition) upon two unjust Certificates, and the irregular proceedings of the Court.

The matter in fact we finde to be thus : Geo. Worfeild (Uncle to the Petitioner) having many Suits at Law, was unable to follow them himself : thereupon he earnestly solicited the Petitioner (who was then a Clothier in Worcester, and in good Trading) to take upon him the soliciting of his Law-Suits, which he was unwilling to do ; but by the said Worfeilds persuasions and promises to give him satisfaction for his pains and los (if his estate would do it) he did undertake to sollicite his Suits, in which he spent about seven yeers, and neglected his Trade.

We finding that Worfeild saying to make good his Promise, the Petitioner exhibited his Bill in Chancery against the said Worfeild and Elizabeth his Wife, to have recompence for several sums of Money disbursed in the said Suits, and for his pains, los of time and trade, sustained in the solliciting the said Suits.

And the Defendant Worfeild exhibited his Bill in the said Court, to have an Accompt of the Rents of certain Mills called Ibulls Mills, and of a House in Worcester in the Bill named, and to have restitution of Writings detained by the Petitioner, and to have satisfaction of divers Debts which he had paid as Surety for the Petitioner.

The 25 of Octob. 10 Car. both Causes came to Hearing before Lord Keeper Coventry ; but being matters of Accompt, the Lord Keeper by Order of the same day, referred the Auditing of the Accompts to Sir Walter Devereux, William Barkley Esq; and Dr. Charlet ; In pursuance of which Order, the 20 of Decemb. a Commission issued to the said Gent. to take the Accompts of both Parties, and they were also thereby directed to take into Consideration the Petitioners pains, and other things admitted in Worfeilds Answer, and to make the Petitioner fit Allowance thereof ; and had likewise power to Examine the Parties and such witnesses upon Oath, as by Order of the Court directed to be Examined in the Premises.

The 19 of Jan. 1634. the said Commissioners returned their Certificate, That on the 15 of the said Month, they had heard the Parties, and taken the Accompts upon Oath, and had Examined the Parties upon Oath, and also several Witnesses upon Oath, and have reduced their Accompts to Certainities, (viz.) That the Petitioner had disbursed in the said Suits 200 l. which was recovered against Worfeild by Suit at Law ; and that he had received in Monies for the Rent of the Mills and House in Worcester, and for Monies paid by Worfeild for the Petitioner 419 l. 10 s. more, which amounts to 619 l. 10 s. They also certify, That Worfeild had paid to the Petitioner the 200 l. recovered, and cost of Suit ; and that he paid to, and for the Petitioner, together with what he had received from the Mills and House in Worcester 419 l. 10 s. All which doth amount to 619 l. 10 s. which said sum of 619 l. 10 s. the said Commissioners only allowed the Petitioner for his Disbursements, los of Time and Trade, and of other things admitted of in Worfeilds Answer. One Witness testifies that the said Commissioners then declared, That they allowed the Petitioner the los, by reason of the interest he had, or claimed in the Mills or Lands in question. And another Witness then present believes that they did so declare themselves ; and notwithstanding * Worfeild sues the Petitioner for the said Mills, and Lands.

We finde also that the Petitioner the 14 of March 1634. Petitioned the Lord Keeper, in which he doth affirm, That the Gentlemen before named for Commissioners, were put upon him without his consent : the same also appears by the Petitioner's own Affidavit of the 27 of Feb. 1645.

We finde that by Order of the 16 of Feb. 10 Car. the Petitioner had a new Commission dated the 11 of March 10 Car.

10 Car. directed to the same Commissioners, with the like Authority as in the former, the said Commissioners confirm their former Report without any Addition or Alteration. Whereupon, the 30 of April, 11 Car. it was Ordered by the Lord Keeper, That both the said Certificates, and all the matters therein contained, should be Confirmed and Ratified by the Decree of the Court of Chancery; and against this Decree the Petitioner doth Complain.

And we finde that upon a hearing before the Master of Rolls, between *VVriter* and *VVorfield*, concerning the interest of the said Mills, the said Decree was read, and by Order of the 29 of October, 1653. it was Ordered to be given in evidence in a Tryal at Law, upon this Issue, viz. Whether *George VVorfield* did declare any Trust for the Petitioner, of the Estate that he had made to one *Thomas VVriter*, in the said Mills and Lands.

We finde, that *VVriter* petitioned the Parliament for relief against the said Decree: but no Report was made of this Case, though prepared. And that pending his Petition in Parliament, *George VVorfield* died, and made the said *Elizabeth* and *John VVorfield* Executors of his last Will, and that after, viz. in 1647. the Petitioner exhibited his Bill of Review in the Court of Chancery, against *John VVorfield* and *Elizabeth VVorfield* Executors of the said *George VVorfield*; but his Bill was dismissed, because he was not relievable by the practice of the said Court.

upon a Judgment
20th.

The Cause of the Petitioners Complaints, are first against the Lord Keeper. Secondly, against the Commissioners. Thirdly, against the Certificates.

1. **A**gainst the Lord Keeper, for appointing Commissioners to audit his Accounts; to which he did not consent, as it appears by *VVriters* Petition, presented to the Lord Keeper in March 1634. and an Affidavit of his own, made before a Master in Chancery, 1645.

2. That though the Petitioner by a second Petition and Affidavit, did inform the Lord Keeper of the miscarriage of the Commissioners upon the second Commission; yet he decreed the Certificates, without giving day to speak to them in Court.

Against the Commissioners.

1. Because *Mr. Barkley* was Uncle to *John VVorfield*, against whom the Suits were managed by the Petitioner. And *Sir Walter Devereux* was Landlord to *George Worfield*; as appears by two Affidavits.

2. That the Petitioner at the first Commission, (as appears by two Depositions) delivered an Account to the Commissioners of 2000 l. which he demanded for his Disbursements, Damages, loss of Time and Trade: but the Commissioners do certify his Account thus, viz. The Account of *Clement VVriter* taken upon his Corporal Oath, touching matters between him and *George Worfield*.

1. *Viz.* The said *Writer* demands for all his Disbursements in the Suits for the said *George VVorfield*, which is paid with Costs of Suit, 200 l. 00 00

2. He demands Allowance for his Expences, and his own Maintenance, and for his Horse for one year with the other for seven years; and for Damages for these Expences, and for his Pains and loss of Trade, they certify no Sum. 00 00 00

Yet the said Commissioners think fit to allow the said *VVriter* for all his rates and loss of Trade, the said 200 l. and Costs of Suit, and more, 419 l. 10 s. in toto, 619 l. 10 s.

3. That though the Petitioner did demand 2000 l. for Moneys disbursed in the said Suits, loss of Trade, &c. and though it be proved on the Books, that the Defendant, *George VVorfield*, offered the Petitioner as good as 700 l. which he was to have over and above what he had received, as appears by the Deposition of one *Wincels*, and the belief of another; yet the Commissioners put the Defendant *VVorfields* whole demands, being 619 l. 10 s. against the Petitioners demands, being 2000 l. without any deduction, though it appears on the Books, that there are mistakes, and allowances thereof ought to have been made to the Petitioner: & so do cut off from the Petitioners demands 1380 l. 10 s. and leave the remaining onely 619 l. 10 s. which Sum of 619 l. 10 s. they think fit to allow the Petitioner for his Moneys disbursed in the said Suits, Damages, and loss of Trade, never making any particular Exception to the residue.

4. That *Thomas VVriter* deposeth that the Commissioners did so much favour *George VVorfield*, that *The Petitioner*, when the Defendant moved to have certain mistakes in the Account rectified, they refused; and that *Mr. Barkley* expressed himself against the said *VVriter* by his partial Speeches, viz. We have proved, we have no Counsel, we have paid, our Cause. By one other Witness, That there was more respect given to *VVorfield* then to *VVriter*. By a third Witness, That *VVriter* had taunting Speeches given him by the Commissioners.

Against the Certificate, the Petitioner did except as unjust, and thereupon procured a second Commission, but it was directed to the same Commissioners.

now did they
relieve him
as by the
former Certificate
they would
adhere to

That at the second Commission the Petitioner attended with his Counsel, and tendred unto the Commissioners the like Account of 2000 l. as he had done before, and did declare unto them, that he was ready to prove the particulars thereof out of the Books, which he desired he might be permitted to do; and, that the errors and mistakes in the former Certificate may be rectified. To which they answered, That unless the Petitioner could show new matter, they would adhere to their former Certificate; which accordingly they did, without further examination of the Petitioners Accounts, or stating of his demands: and upon these Certificates, was the said Decree founded.

We finde, That the Lord Keeper *Coventry*, *George VVorfield*, *VValter Devereux*, and *Doctor Charlet*, are dead: but *Mr. Barkley*, one of the Commissioners, and the said *Elizabeth VVorfield* are living. And how in the Intervals of Parliament, the Petitioner may be relieved, we do not see, unless your Highness shall think fit to extend your favour unto him, the Decree not being reverfable by any ordinary proceeding in the Law, or Practice of the Chancery. All which is humbly submitted unto your Highness's consideration.

Referred to the Council,
August 10. 1653.

John Parker.
John Corbet.

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A Supplement of some material things, which though fully proved, yet are either wholly omitted, or not so fully express'd in the precedent Report, as might have been.

1. **T**hat the Lord Keeper put Commissioners unsworn, to take the Account, &c. against the liking of the Petitioner; which he ought not to have done, being against justice and the Rule of the Court.
2. That the Petitioner's chiefest Employments and Disbursements, then to be accounted and allowed for by the said Commissioners, did concern, and were against Mr. Barkley's own Sitter and her Son: which Barkley, carried himself so partially against the Petitioner, that he seemed rather a Party, than an indifferent Commissioner.
3. That although an Account with Sums to each particular, amounting in the whole, to above 2000 l. was delivered by the Petitioner to the said Commissioners; yet they in stead thereof certified an Account onely of 200 l. as the Petitioner's Account; naming all other particulars of his demands, without any Sum to any of them. And this blank Account, they certified for the Petitioner's Account and whole demands: and, that this was taken upon his Corporal Oath, Certificate, p. 5.

See the rule of the Court
Settled by the Court
From Callow

Settled by the Court

should swear, that all the Moneys he demanded, by this his Suit in Chancery, was onely the 200 l. which he had formerly at Law recovered, and received. Obtrusive Certificate to be decreed, denying the Petitioner to be heard therein!

And after in p. 9. they certify, That nothing was due or remaining from either party to the other: and so they quit scores between the parties, whereby they cut off the Petitioner, not onely from all his said demands of above 2000 l. but also from the Defendants offer of 700 l. over and above what he had formerly received: for their pretended allowance of 619 l. 10 s. is a meer cheat or noyse onely of so much allowed, when indeed and in truth that allowance was in effect nothing, nor was the Petitioner the better thereby one penny: for the 200 l. (being recovered at Law long before) lay not in the Commissioners power to allow or disallow; and the residue being but 419 l. 10 s. was (within a small matter) made up of Moneys some over-reckoned or wrongfully charged; some received for Rent, and some borrowed, but all spent in the Defendants Suits, over and above the Petitioner's own Moneys spent likewise in the same Suits. And therefore the Defendants accounting these Moneys, or his discharging these Debts, paid not the Petitioner one penny of his own Stock-moneys or Revenues, spent also in the same Suits: much less could it recompence him for his Pains & Damages, by loss of Time and Trade, or otherwise: all which ought to have been done, and was promised by the said Defendant, George, proved by divers Witnesses, besides his own confession.

Settled by the Court

Settled by the Court

4. That their Certificate thwarts it self: for in page 5. they allow the said 619 l. 10 s. for certain things particularly there named: and in page 3. they allow the same 619 l. 10 s. for all other things, in the answer of the said George admitted: whereby other Dues not appertaining to these Disbursements, yet confess'd in the Answer of the said George, fol. 23. are cut off from the Petitioner.

Settled by the Court

5. That by the second Commission, (as well as by the first) they were required to take, and to return the Accounts between the parties: contrary hereunto, they have returned none: they were required, to examine and compute the Accounts, to rectifie their former mistakes &c. contrary hereunto, they refused to examine the Petitioner's Accounts, or to hear the particulars thereof proved, as was offered and desired by the Petitioner's Counsel, proved by Mr. William Hill, Thomas VVriter, and Sergeant VVilde. Yet the said Commissioners have certified, page 2. That they had fully heard again all the demands and allegations of the Petitioner and his Counsel, in as full and ample manner, as by Commission they were required: but how notorious false this is, the said Witnesses and Commission will shew.

Settled by the Court

6. That the Petitioner's Bill against the said George and Elizabeth VVorfield, was (inter alia) to have the Inheritance of Ibull's Mills and Lands settled upon him, according to the agreement and promise of the said George: upon opening onely of the Bill and Answer, the Accounts were referred, but no power given to meddle with the Land: and so much was openly declared by the Commissioners themselves, who also declared, that they allowed the Petitioner less then otherwise they would have done, by reason of the Interest he claimed in the said Land: and there is nothing in their first Certificate concerning the Land, and their second only confirms the first. Whereupon both were decreed without hearing the Petitioner either in this particular, or in any thing else: which was not only against the Rule of the Court, but against reason and justice, to be so concluded without being heard, either by the Commissioners or the Court.

Settled by the Court

Hence therefore it is conceived most unreasonable and unjust, that now the Petitioner should (to his ruine) be oured of this Land also upon this advantage and by such a Decree, even whilst he is seeking his relief against the same; the retarding whereof above these fourteen yeers *not being by any neglect of his: nor is this onely most injurious, but even against the intention of the Commissioners themselves, (though they were otherwise most unrighteous) that any general words of their Certificate should be made use of, as they are, to destroy that very Interest of the Petitioner, which they not onely denied to meddle with, but also allowed him the less in respect thereof; and it being the greatest means of his present subsistence.

Settled by the Court

* For he attended the long Parliament from the very beginning to the end, as likewise the two later, seeking relief in this matter; had divers Orders for the hearing thereof, and one Report prepared ready to have been

made in the Case, a Copy whereof, is annexed to the Petition to his Highness.

7. That these present Referrees caused notice of this Reference to be given to the Petitioner's Adversaries, and gave them Time to make defence; which that they might the better do, they delivered into their hands the Petitioner's Papers, containing as well the particulars of his Account (which he formerly delivered to the Commissioners) amounting to 2178 l. as also his charge against the said Commissioners, for their false and unjust proceedings against him (in returning false Accounts, and making false Certificates, &c.) with his proofs to each particular, both of his said Account and charge.

Which

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Which Papers after eight dayes time, they returned back unto the said Referrees, with a Paper of their own, importing their Answer, wherein they have not so much as gaind any one particular of the Petitioners said Account or Charge. And as to the matter, they onely say this, viz. They hope it is not within the intention of the Lord Protectors Reference, that Decrees of Courts of Justice, (and especially such as upon a Bill of Review brought before some of the now Lords Commissioners have been allowed and approved of, as justly made) should be set aside by this Reference, and the Accounts so settled as aforesaid, again raveled ino, against Executors, who were Strangers to the same Account.

1. That the Executors were strangers to this Account, Is most false:
For he made but two Executors: and the one was a party to the Suit; and the other solicited the same against the Petitioner, and was acquainted with all the proceedings, and was examined as a witness in the Cause by both parties; and therefore no strangers, &c.

For they only said, That by ordinary practice of the Court, they could not relieve the Prisoner; and apparently

The Report. It is a Bill was drawn upon a Dominion entirely for want of some formality of Court, the moral of the case or my End of the Record not coming into question. The Truth of the Premises shall be manifested as occasion shall be offered.

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C. W.

FINIS.

